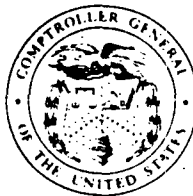


DECISION



95314
50575
THE COMPTROLLER GENERAL
OF THE UNITED STATES

WASHINGTON, D.C. 20548

FILE: B-181552

DATE: FEB 24 1975

MATTER OF: Travel allowances -
Lieutenant Richard A. Hahn, USNR

DIGEST: Where member ordered on permanent change of station to ship homeported at Pearl Harbor shipped household goods to Hawaii, learned of home port change to San Francisco and arranged quarters at San Francisco prior to departure from CONUS to Hawaii with dependent, payment of claim for dependent's travel to Hawaii, temporary lodging allowance (TLA) and return to CONUS is not authorized, since intent to establish bona fide residence in Hawaii is not demonstrated on record, and documentation substantiating satisfaction of conditions precedent for TLA is lacking. However, member is entitled to dependent's travel allowance based on distance from old to new duty station.

This action is in response to a letter dated May 10, 1974, from P. D. Mickey, Disbursing Officer, U.S.S. Carpenter (DD-825), Fleet Post Office, San Francisco, California 95601, requesting an advance decision in the matter of a claim by Lieutenant Richard A. Hahn, USNR, 112-38-9871, for travel by a dependent (his spouse) from continental United States (CONUS) to Hawaii in the amount of \$535; for temporary lodging allowance (TLA) while in Hawaii in the amount of \$280.80; and for dependent's travel from Hawaii to CONUS in the amount of \$124.03. The claimed expenses were incurred incident to a permanent change of station by Lieutenant Hahn. The request for advance decision was approved and forwarded to this Office by fourth endorsement dated June 19, 1974, of the Department of Defense Per Diem, Travel and Transportation Allowance Committee and was assigned PDTATAC Control No. 74-25.

By Bureau of Naval Personnel Orders dated May 16, 1972, Lieutenant Hahn was directed to proceed upon detachment from duty in Newport, Rhode Island, to the port in which the U.S.S. Carpenter might be and report to the Commanding Officer for duty. At that time, the Carpenter's home port was Pearl Harbor, Hawaii. On June 2, 1972, Lieutenant Hahn made arrangements for shipment of

his household goods to Pearl Harbor. A copy of DD Form 619 included in the record shows the date of shipment of the household goods as June 29, 1972. Further, a port call confirmation dated July 12, 1972, issued by the Director, District Passenger Transportation Office, Oakland Naval Supply Center, states that surface transportation arrangements had been made for the member and dependent via a vessel departing California on August 10, 1972. On July 14, 1972, Lieutenant Hahn was detached from duty at Newport and proceeded on leave.

In a message dated July 23, 1972, the Chief of Naval Operations directed that, effective August 15, 1972, the U.S.S. Carpenter's home port would be San Francisco. The Carpenter apparently received this message on July 29, 1972. The information of record indicates that on August 3, 1972, an officer in the Bureau of Naval Personnel informally advised Lieutenant Hahn of the home port change to become effective August 15, 1972; however, reportedly the officer also advised Lieutenant Hahn that since Lieutenant Hahn had not received official notification of the change of home port, he should proceed to Hawaii to join his ship, and that he could take his spouse with him. In this connection, a message in the record from the Chief of Naval Personnel to the U.S.S. Carpenter dated August 22, 1972, states that Lieutenant Hahn had no official knowledge of the home port shift prior to his departure from California on August 10, 1972.

The record further indicates that while Lieutenant Hahn was still in CONUS, he contacted an officer of the Carpenter who advised him that the ship had received official notification of the home port change. It is stated that Lieutenant Hahn, before his departure from California, applied for housing. In this connection, a military pay order dated August 7, 1972, from the U.S. Naval Station, Treasure Island, San Francisco, directed to the Disbursing Officer, U.S.S. Carpenter, states that the member was assigned to quarters at Treasure Island.

On August 10, 1972, the member and his wife proceeded to Pearl Harbor. The record contains a receipt for lodging expenses at an apartment hotel in Hawaii for the period from August 16-31, 1972, with the rental charges assessed on a daily basis. The record further indicates that on August 28, 1972, the member purchased a commercial airline ticket, and that his wife returned to CONUS by air on September 7, 1972.

In August 1972, a request for determination of the member's eligibility for reimbursement of dependent's travel and TLA was made to the Navy Finance Center. The Navy Finance Center found no basis for entitlement, stating that, pursuant to decisions of this Office, the administrative error by the Bureau of Naval Personnel officer in advising Lieutenant Kahn that he could take his spouse to Hawaii could not create entitlement. The Finance Center's decision in this respect was in accord with prior decisions of our Office treating of similar issues. See, for example, B-165225, November 1, 1968.

It is stated that this matter has been resubmitted because it was felt that the initial claim had not been properly presented. In the present submission, the claim is based upon the contention that the member was never officially notified of the home port change, as evidenced by the fact that he shipped his household goods to Hawaii. Concerning the assignment of quarters, it is stated that the member was not informed that under Navy regulations, housing may be granted only upon official notice of a change in home port.

Section 406 of title 37, United States Code (1970), provides that a member of a uniformed service who is ordered to make a permanent change of station is entitled to transportation in kind for his dependents, to reimbursement therefor, or to a monetary allowance, under such conditions and limitations as the Secretaries concerned may prescribe. Paragraph M7000-12 of Volume 1, Joint Travel Regulations (1 JTR) (change 224, September 1, 1971), effective at the time in question specifies that a member is entitled to transportation of dependents at Government expense upon a permanent change of station for travel performed from the old station to the new station or between points otherwise authorized except for any travel of dependents between points otherwise authorized to a place at which they do not intend to establish a residence and that travel expenses of dependents for their travel for purposes other than with the intent to change their residence may not be considered an obligation of the Government.

From the foregoing, it is apparent that no right to reimbursement for transportation expense of dependents arises unless the travel may be considered as incident to a change of residence as a result of an ordered permanent change of station. This Office has held that the expense of travel of dependents merely for the purpose of visiting the member, for pleasure trips, or for other

purposes not contemplating a change of the dependent's primary residence in connection with a change of the member's permanent station is not an obligation of the Government. See 33 Comp. Gen. 431 (1954) and decisions cited therein.

From the foregoing, it is apparent that payment of transportation allowance for travel of dependents is conditioned upon an actual movement of the member's family with the intention of relocating his household incident to a permanent change of station. In the present case, we do not find that the circumstances convincingly demonstrate that the claimant and his wife intended to establish a bona fide residence in Hawaii. The fact that Lieutenant Hahn shipped his household goods to Hawaii does not appear to be persuasive, since this was accomplished prior to the time he received notice of the home port change. Further, while Lieutenant Hahn may not have received an official notification of the home port change prior to leaving COMUS, it is undisputed that he received informal notice both from the Bureau of Naval Personnel and from the U.S.S. Carpenter. Moreover, after receiving such notice, he obtained quarters at Treasure Island Naval Station. It is not apparent why the claimant would have taken this step had he intended to establish his bona fide residence in Hawaii.

In connection with the claim for temporary lodging allowance 1 JTR para. M4303 provides that TLA may be authorized upon initial arrival at a permanent duty station outside the United States (the definition of which includes Hawaii) and pending assignment of Government quarters, or pending completion of arrangements for other permanent living accommodations when Government quarters are not available. Since the travel of Lieutenant Hahn's wife to Hawaii was not for the purpose of establishing a residence at a new permanent station the provisions of para. M4303 are not applicable with respect to the quarters they occupied in Hawaii. Further, since there is no evidence that he would have been required to occupy temporary quarters had he traveled to Hawaii alone no TLA is authorized.

Therefore, Lieutenant Hahn is not entitled to TLA in Hawaii nor for travel allowances for his wife's travel from COMUS to Hawaii and from Hawaii to San Francisco. However, Lieutenant Hahn apparently did establish a bona fide residence at San Francisco (his new permanent duty station) before departing COMUS for Hawaii,

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and it seems clear that his wife's travel was incident to his change in permanent duty station. Accordingly, Lieutenant Hahn is entitled to travel allowance for his wife computed in an amount not to exceed such allowance based on the distance from his old permanent duty station (Newport, Rhode Island), to his new permanent duty station (San Francisco, California). Compare 42 Comp. Gen. 287 (1962).

R.F. KELLER

Deputy⁷ Comptroller General
of the United States